

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

RICHARD PHILLIP BEATS,	)	
	)	
Petitioner,	)	
vs.	)	NO. CIV-12-00014-HE
	)	
MARVIN VAUGHN,	)	
	)	
Respondent.	)	


**ORDER**

Petitioner Richard Phillip Beats, a state prisoner, filed this action pursuant to 28 U.S.C. § 2254 seeking a writ of habeas corpus. The matter was referred for initial proceedings to Magistrate Judge Bana Roberts consistent with 28 U.S.C. § 636(b)(1)(B) and (C). She has recommended that the petition be denied with respect to petitioner's claim that his sentence was illegal on the ground that claim is procedurally barred. She concluded that petitioner's claim of ineffective assistance of counsel is not procedurally barred and recommended that it be remanded for further review.

Neither party objected to the Report and Recommendation and thereby waived their right to appellate review of the factual and legal issues it addressed. United States v. One Parcel of Real Property, 73 F.3d 1057, 1059-60 (10th Cir. 1996). *See* 28 U.S.C. § 636(b)(1)(C). Accordingly, the court adopts Magistrate Judge Robert's Report and Recommendation, denies plaintiff's claim that his sentence was illegal and refers the matter again to the magistrate judge for further review of plaintiff's ineffective assistance of counsel claim.

**IT IS SO ORDERED.**

Dated this 5th day of October, 2012.



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JOE HEATON  
UNITED STATES DISTRICT JUDGE